REMARKS

This paper filed under 37 CFR §1.143 as Applicant's Response to the Requirement for restriction imposed under 35 U.S.C. §121 and 37 CFR §1.142 and set forth in the Office action (Paper No. 20070427) mailed on the 8th of May 2007, reconsideration and re-examination are respectfully requested.

Listing of the Claims

Pursuant to 37 CFR §1.121(c), this listing of the claims, including the text of the claims, will serve to replace all prior versions of the claims, in the application.

Amendment of the Claims

No claims are amended via this Paper.

Status of the Claims

Claims 1-20 are pending in the application.

Requirement for Restriction - 37 CFR §1.142

In the Restriction Requirement set forth in the Office action, the Examiner required a restriction under 35 U.S.C. §121 and 37 CFR §1.142, between:

- **Group I** covered by claims 1-16, drawn to converting voice signal into packet data and converting packet data into voice signals, classified in class 370 at subclass 353 and;
- **Group II** covered by claims 17-20, drawn to voice processing, classified in class 370 at subclass 357.

Applicants respectfully traverse the election requirement imposed in the Office action, but provisionally elect **Group I** covered by claims 1 through 16, which the Examining staff has determined is classified in class 370 at subclass 353.

Applicant objects to and traverses the restriction requirement on the grounds that the subject matter of the two groups overlap. In addition, the mandatory fields of search for the two embodiments are coextensive. Finally, it appears that the restriction requirement is being imposed merely for administrative convenience, and such a basis for imposition of a restriction requirement has been prohibited in previous decisions of the Commissioner.

It is submitted that search of the U.S. Patent Collection produced the following partial list of recent U.S. patent issued which are in fact classified in both class 370 at subclass 353 and class 370 at subclass 357:

Searching US Patent Collection...

Results of Search in US Patent Collection db for:

(CCL/370/353$ AND CCL/370/357$): 7 patents.

Hits 1 through 7 out of 7

	PAT. NO.	Title
1	7,089,012	Method and system for use in reducing cost associated with lost connections in wireless communication
2	6,937,862	Maintaining association in a communications network
3	6,856,804	Mobile station internet messaging
4	6,775,369	System and method for establishing roaming line numbers
5	6,542,468	Apparatus method and storage medium for autonomous selection of a path by tuning response times
6	6,269,084	Time delay based solution of a telecommunication route
7	5,983,327	Data path architecture and arbitration scheme for providing access to a shared system resource

This partial listing of recent and earlier U.S. patent issues confirms that both Group I and Group II have customarily been considered together under long-standing U.S. Office practice. Moreover, in the above-captioned application, Group I relates to apparatus providing redundancy for a voice processing unit in a media gateway system, while Group II relates to a process providing redundancy using the features of apparatus providing redundancy. Features defined in independent process claim 17 correspond to features defined by claims depending upon independent apparatus claim 1. Examination of elected dependent claims 8 and 9, by way of example, requires examination of non-elected independent claim 17 for the same features. Examination of elected dependent claim 11, by way of example, requires examination of non-elected independent claim 17 for the same features. Examination of elected dependent claim 12, by way of example, requires examination of non-elected independent claim 17 for the same features. A failure to examine these aspects of the elected and non-elected claims as is long-standing Office policy, as is demonstrated by the foregoing partial listing of U.S. patent issues, unfairly prejudices Applicant relative to its competitors represented by the assignees of the foregoing listing, and Applicant's ability to obtain a thorough examination of its application in this compacted prosecution.

As specifically stated in MPEP §803, in imposing a restriction requirement, the Examiner must show that:

(A) the inventions are independent (*see* MPEP §802.01, §806.04, §808.01) or distinct as claimed (*see* MPEP §806.05 - §806.05(i)); **and**

(B) there will be a **serious burden** on the Examiner if the restriction requirement is not imposed (*see* MPEP §803.02, §806.04(a) -§806.04(i),§808.01(a), and §808.02). It is respectfully submitted that there would **not be a serious burden** upon the Examiner in searching Groups I and II.

Firstly, the Examiner has failed to show any type of burden, much less a serious burden, in the absence of a restriction requirement. In particular, not only has the Examiner failed to show that the search would impose a burden, but also the Examiner has failed to show that any burden would rise to the level of a serious burden. As stipulated in MPEP §803, if the search can be made without serious burden, the Examiner **must examine the application on the merits**, even if there are separate and distinct inventions. The Examiner has not alleged any serious burden in imposing the requirement and thus the Examiner must examine the entire application. Moreover, because no burden was shown, if the restriction is not withdrawn in the next Office action, the restriction requirement cannot be made final according to MPEP §706.07.

Secondly, whereas the Examiner has stated that the inventions of Group I covered by claims 1-16, drawn to converting voice signal into packet data and converting packet data into voice signals classified in class 370, subclass 353 , and Group II covered by claims 17-20, drawn to voice processing, classified in class 370, subclass 357, it is submitted that, in order to perform a comprehensive search, the Examiner is going to be compelled to perform some searching in class 370 at both subclasses 353 and 357. It is submitted that a search of the U.S. Patent Collection, when correctly classified, will produce al list of recent U.S. Patent publications and U.S. patent issued which are in fact classified in both class 370 at subclass 353 and class 370 at subclass 357. Thus, under long standing Office practice extending over approximately three decades, the fields of search are coextensive with respect to the two groups of claims, and therefore the restriction requirement serves no purpose other than to impose an undue burden and unnecessary expense upon the Applicants (*see* MPEP §802.01, §806.04, §808.01).

Thirdly, *MPEP* §806.03 states that:

> "Where the claims of an application define the same essential characteristics of a *single* disclosed embodiment of an invention, restriction therebetween **should never be required**. This is because the claims are but different definitions of the same disclosed subject matter, varying in breadth or scope of definition" (emphasis supplied).

Why, then has this prohibition been violated in the above-captioned application where a single embodiment has been disclosed? That fact that Applicant's claims are very broad in scope, and cover a plethora of implementations of the principles of Applicant's inventions, is not a basis for violating this prohibition against restriction. Withdrawal of this requirement is therefore respectfully urged.

For the above reasons, it is respectfully submitted that the restriction requirement is unnecessary, is not in accordance with the Rules of Practice or the *Manual of Patent Examining Proceedure*, and constitutes the imposition of an undue burden and unfair expense upon the Applicants. Therefore, the restriction requirement should be withdrawn.

If the requirement for restriction is not withdrawn, then the Applicants reserve the right to file a Petition to the Commissioner because there is no ***serious*** burden upon the Examiner in searching the invention of Group I and Group II.

In view of the foregoing demonstration of the impropriety of this requirement, it is requested that the restriction requirement be withdrawn. It is further submitted that the application is in condition for examination on the merits, and early allowance is requested.

Respectfully submitted,

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